

**PX 296**

**Declaration of Theodore W. Robinson**

I, Theodore W. Robinson, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true:

1. I am an attorney duly licensed to practice in the State of New York. I have been a practicing criminal defense trial attorney in Nassau County, New York, since 1974.
2. I defended John Restivo against charges related to the 1984 rape and murder of Theresa Fusco. I represented Mr. Restivo from the time he first became a suspect in March of 1985, through his indictment later that year, and his 1986 trial and conviction. I continued to represent Mr. Restivo in post-conviction proceedings into 2001 and thereafter. I also represented Mr. Restivo's co-defendant, Dennis Halstead, in connection with these charges in 1985 before he retained Joseph Famighetti.
3. I have always believed that John Restivo was innocent of the Fusco rape and murder.
4. I first received a telephone call from John Restivo regarding the Fusco case on the evening of March 6, 1985. Prior to that time, my father, Phillip F. Robinson (who was also my law partner) and I had represented members of the Restivo family on a variety of relatively minor legal matters, including real estate transactions.
5. On the evening of March 6, 1985, John Restivo told me that he had just been released from custody after having been detained overnight at the police station and interrogated about Ms. Fusco's disappearance and murder, and asked to set up a time to see me. We made an appointment for the following day, March 7.
6. At that meeting I debriefed him on the police interrogation. Mr. Restivo informed me that he had been interrogated for approximately twenty-four hours by Nassau County Police Department Detectives Robert Dempsey, Joseph Volpe and Jack Sharkey. He further informed me that he was physically assaulted by the detectives interviewing him and showed me contusions on his face and neck that he said he had received at the hands of the police, which I photographed. (Black and white copies of the color photographs I took are attached to this declaration as Exhibit A.) Mr. Restivo also told me he had not been allowed to make a phone call to his wife, family or attorney, and been told that he would not be permitted to leave police headquarters until he gave a statement regarding the Fusco murder.
7. After speaking to Mr. Restivo, I called the NCPD Homicide Squad to enter appearances for both John Restivo and Dennis Halstead and to complain about this mistreatment. I asked for Detective Dempsey; Detective Dempsey then came to the phone and identified himself and asked who was calling. When I said my name and told him I was the attorney for John Restivo and Dennis Halstead, Detective Dempsey loudly and abruptly informed me he did not know who I was and did not wish to talk to me and hung up on me. I called the Homicide Squad back and asked to speak to the Lieutenant in charge. Lieutenant Spillane identified himself and I



again informed him that I represented both John Restivo and Dennis Halstead. Lieutenant Spillane immediately became abusive and surly, and I was forced to terminate the phone call without formally noting my appearance.

8. As a result of the abusive behavior by both Detective Dempsey and Lieutenant Spillane, I was unable to follow the normal procedure of notifying the NCPD of an attorney/client relationship via telephone. Instead, I had to send an associate to Police Headquarters to deliver notices of appearance for both John Restivo and Dennis Halstead. (Copies of these notices are attached as Exhibit B). It was my belief that both Dempsey and Spillane purposely contrived to prevent me from notifying them of the attorney/client relationship in the customary manner (that is, by telephone) in an attempt to delay formal notice of an attorney appearance for Mr. Restivo and Mr. Halstead.
9. Beginning in March, 1985, I repeatedly wrote to authorities including Nassau County Police Commissioner Samuel Rozzi to complain that NCPD Homicide Detectives in the Fusco murder investigation were engaged in a pattern and practice of abusive tactics, including not only the misconduct detailed above, but also additional harassment of John Restivo and Dennis Halstead, and harassment of "potential witnesses," including threats of violence, prolonged detention without being permitted a phone call, and coercing statements from these "potential witnesses." (Copies of several of the letters I sent are attached as Exhibit C.) To my knowledge, no real investigation of these allegations ever took place. Although I repeatedly volunteered to cooperate with any investigation into the NCPD Homicide Squad's abusive tactics and to make Mr. Restivo and Mr. Halstead available for this purpose, neither I, nor, to my knowledge, Mr. Restivo or Mr. Halstead, were ever contacted as part of any investigation into these allegations of misconduct.
10. I recall that during Mr. Restivo's cross-examination at trial, he was asked about telephone records reflecting a call from his residence to my law office on December 6, 1984—the day after Ms. Fusco's body was found, and three months before he was first interrogated by the police as a suspect in March 1985. I was positive at the time of trial, and am positive today, that the telephone call on December 6, 1984 had nothing to do with the Fusco case. The first time that Mr. Restivo ever consulted me regarding the Fusco case was on March 6, 1985, the day after his release from custody. Indeed, I do not remember consulting with John Restivo on any matter at all in December 1984. Based on the date of the December 6 phone records, the call was likely from either Mr. Restivo or his common-law wife, Joann Eginton, to my father and law partner, Phillip Robinson, who had handled the purchase of their new house in Wantagh in the fall/winter of 1984. Although the closing occurred in early November 1984, I recall that a kitchen stove at the house had malfunctioned, and that John and Joanne had contacted my father sometime in December to see if they had any recourse against the former owners for the defect. I also recall that there were some outstanding issues involving funds placed in escrow which were not resolved until several weeks after the closing.

11. On or about March 26, 1985, I heard news reports that John Kogut had given a videotaped confession to the rape and murder of Ms. Fusco and implicated John Restivo and Dennis Halstead. The following day, Mr. Restivo came to my office to discuss these allegations, and also informed me that his van had been confiscated by the police. I instructed him to try and determine his whereabouts on the night in question (November 10, 1984) and to see if he had any witnesses or documentation by way of support.
12. In subsequent consultations in my office over the following week, Mr. Restivo informed me that he and his family had looked through their documents and had been able to determine his whereabouts on the night in question (November 10, 1984). Specifically, he told me that he had been sanding floors at the Wantagh house that day and evening, and that he had receipts to document the rental of certain tools they had used for the job. In one of our consultations, he showed me one such receipt for a floor sander from Prez Tools, Inc., that had a handwritten date of November 11, 1984. Mr. Restivo told me that he was positive he had rented the tool on Saturday, November 10, but that the store proprietor must have written the wrong date on the receipt. Believing that this receipt could provide important corroboration for the chain of events that comprised his alibi on November 10, I instructed Mr. Restivo to immediately return to the tool rental store with the receipt, and see if the proprietor had any records that could corroborate the correct (Nov. 10<sup>th</sup>) date. Subsequently, Mr. Restivo did so. When he returned from the store and informed me that the proprietor had confirmed that the rental was on November 10 and was willing to change the date on the receipt to reflect the correction. He also informed me that, according to the store's proprietor, the store was closed on Sundays and thus he knew the rental could not have been on November 11, as that day was a Sunday. Accordingly, I decided to send our investigator (Rick Arden) with Mr. Restivo to take a statement from the store owner, which he did in early May. The statement of Mr. Leo Klein taken by Mr. Arden and dated May 2, 1985, was prepared at my direction. (Copies of contemporaneous notes I took noting some conversations with John Restivo on this subject and my subsequent instruction to Rick Arden to obtain a statement from Mr. Klein are attached as Exhibit D.)
13. While I do not recall the exact date of the consultation on which Mr. Restivo showed me this receipt and I gave him this instruction, my best recollection is it was within a week or two after the date that Mr. Restivo's van was impounded on March 26<sup>th</sup>. I am sure that when I saw the receipt for the first time, it had the incorrect date written on it; that the first time Mr. Restivo showed me the receipt was in late March or early April, 1985; and that I was the person who gave Mr. Restivo the instruction to go talk to the tool shop proprietor about making this correction. Had I not been Mr. Restivo's attorney during his 1986 trial, I would have been able and willing to so testify, in order to squarely rebut the People's contention that Mr. Restivo went to the tool shop to correct the receipt in December 1984, long before he was a suspect. Having given Mr. Restivo that instruction myself in the spring of 1985, I knew then, and know now, that the People's contention was absolutely false.

14. Consistent with my belief that Mr. Restivo, Mr. Halstead and Mr. Kogut were all innocent, my theory at trial was that an unknown third party had committed the crime. Specifically, in my closing argument I posited that, based on the pattern of strewn jewelry found near the crime scene, the most likely scenario was that Ms. Fusco had been walking down Rocklyn Avenue, and as she went under the railroad underpass, someone grabbed her and dragged her, struggling, down the alleyway to where her body was found. This was inconsistent with the prosecution's theory that Mr. Restivo, Mr. Halstead and Mr. Kogut had raped and killed Theresa Fusco in Mr. Restivo's van and had only brought her to the side of the railroad tracks after she was already dead.
15. During my time representing John Restivo, I never saw any of the documents attached hereto as Exhibit E, either as *Brady/Rosario* material produced by the prosecution or from any other source. I was never made aware of the information in these documents, including that:
  - a. A man named John French reported his car stolen from the area of Lakeview Avenue and Ocean Avenue in Lynbrook, approximately one mile from where Theresa Fusco's body was later found, between 9:30 and 11:05 p.m. on November 10, 1984, the night Theresa Fusco went missing;
  - b. A woman named Debra Smith reported seeing a possibly tan car parked underneath the railroad underpass at Rocklyn Avenue late at night around the time of Theresa Fusco's disappearance and that at the same time she had heard a woman scream from off in the direction where Theresa Fusco's body was later found;
  - c. On November 18, 1984, John French found his car parked several miles away on Woodfield Road in Lakeview; since it had been stolen the license plates had been switched, the windshield had been broken, and rope and tools were missing from the car; Mr. French then drove the car to the Lynbrook Police Department;
  - d. Debra Smith was asked by Detective Volpe to view John French's car and was 90% certain that it was the one she had seen parked on Rocklyn Avenue under the railroad overpass; she recognized the broken windshield and AAA sticker on the rear bumper and her only reservation was French's car was missing the tools, dark colored blanket and rope she had seen on the back seat of the car on Rocklyn Avenue;
  - e. When John French found his car on November 18, 1984, his sister Lori reportedly found a pair of woman's jeans with stripes (the same type of pants Theresa Fusco had been wearing when she disappeared according to the "missing" poster publicized at the time she disappeared, which is attached as Exhibit F) inside-out in the car; these jeans were given to the Lynbrook police with John French's car, but the Lynbrook police subsequently threw them away.

16. I am certain I never knew this information. I worked many hours on John Restivo's defense and was very familiar with the documents I had been provided by Nassau County. I would have used this information at trial in support of my argument that an unknown assailant had abducted Theresa Fusco as she walked on Rocklyn Avenue under the railroad underpass and dragged her, struggling, to the location where she was raped and killed. I would have pursued investigation of these leads. I also would have raised this information in my post-conviction efforts to seek a reinvestigation into this crime, based on my unwavering belief in Mr. Restivo's innocence. There is no doubt in my mind that I never had this exculpatory information before it was shown to me in 2010 during this civil rights lawsuit.
17. I recall that one of the witnesses who testified against Mr. Halstead and Mr. Restivo at trial was Brian O'Hanlon, who claimed that Dennis Halstead had called him from the Nassau County jail and confessed to him that Dennis Halstead, John Restivo and John Kogut had abducted Theresa Fusco in John Restivo's van, raped her and murdered her. Mr. O'Hanlon was a drug addict who was receiving a deal from the prosecution in exchange for his testimony; both I and Mr. Halstead's attorney, Mr. Famighetti, sought to impeach the credibility of his testimony at trial. During cross-examination, I brought out some inconsistencies between a prior statement Brian O'Hanlon had made to the police and his trial testimony, and argued that he was pressured by the police to give the statement implicating Dennis Halstead and John Restivo.
18. During my time representing John Restivo, I never saw the prior statements of Brian O'Hanlon attached hereto as Exhibit G, either as *Brady/Rosario* material produced by the prosecution or from any other source. I was never made aware that in his initial statements to the police, Brian O'Hanlon described the phone calls he had received from Dennis Halstead at the Nassau County jail without describing any confession to the Fusco rape/murder, or that Brian O'Hanlon had admitted to the police that Dennis Halstead had told him his house was bugged and his phones were tapped (something that O'Hanlon specifically denied when asked about it on cross-examination). If I had had this prior statement, I would have used it to impeach Brian O'Hanlon at trial.
19. Even after his conviction, my belief in Mr. Restivo's innocence was not shaken. Although he did not have any money to pay me then, I worked on Mr. Restivo's behalf through 2001 and thereafter, including representing him on appeal and in post-conviction proceedings and arranging for early rounds of DNA testing. My hard work and consistent belief in Mr. Restivo's innocence was finally vindicated first in 2003, when his conviction was vacated based on DNA testing exonerating him, and later in 2005, when the indictment against him was finally dismissed.

I hereby declare under penalty of perjury that the foregoing is true, this 25<sup>th</sup> day of April, 2011.

Hempstead, New York

Theodore W. Robinson, Esq.

# **Exhibit A**

**ROBINSON'S RESTIVO PHOTOS**



**ROBINSON'S RESTIVO PHOTOS**



**ROBINSON'S RESTIVO PHOTOS**



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**ROBINSON'S RESTIVO PHOTOS**



**ROBINSON'S RESTIVO PHOTOS**



**ROBINSON'S RESTIVO PHOTOS**



BOYD, CANTRELL & MOORE, L.L.C.

# Exhibit B

General Notice of Appearance

DISTRICT COURT OF NASSAU COUNTY

FIRST DISTRICT. ARRAIGNMENT PART

THE PEOPLE OF THE STATE OF NEW YORK

vs.

Dennis Harstend

Re: Investigation

TO THE CLERK:

SIR:

You are hereby notified that I, THEODORE W. ROBINSON  
(Please type or print name)

appear for DENNIS HARSTEND, the defendant in the above-  
entitled action.

Dated the 7<sup>th</sup> day of March, 1985

(Signature) [Signature]

Attorney for Defendant

175 West Old Country Road

Address

Hicksville, New York 11801

516-681-5151

Telephone No.

DC 100 M-284

General Notice of Appearance

DISTRICT COURT OF NASSAU COUNTY

FIRST      DISTRICT.      ARRAIGNMENT      PART

THE PEOPLE OF THE STATE OF NEW YORK

vs.

John Restivo

Re: Investigation

TO THE CLERK:

SIR:

You are hereby notified that I, THEODORE W. ROBINSON  
(Please type or print name)  
appear for John Restivo, the defendant in the above-  
entitled action.

Dated the 7<sup>th</sup> day of March 1985

(Signature) Theodore W. Robinson Attorney for Defendant

175 West Old Country Road

Address

Hicksville, New York 11801

516-681-5151

Telephone No.

# Exhibit C

**ROBINSON & ROBINSON**

ATTORNEYS AT LAW  
178 WEST OLD COUNTRY ROAD  
HICKSVILLE, N.Y. 11801

516 681-5151

PHILLIP F. ROBINSON  
THEODORE W. ROBINSON  
PAUL C. AHRENS

UPSTATE OFFICE  
P.O. BOX 191-R.D.#1  
CAMBRIDGE, N.Y. 12816  
518 677-8843

March 19, 1985

Commissioner of Police  
Police Headquarters  
1490 Franklin Avenue  
Mineola, NY 11501

Dear Sir:

Please be advised that on March 7, 1985 I experienced an unfortunate incident with members of your Homicide Detective Squad, particularly Detective Dempsey and Lieutenant Spillane.

Upon receiving a concerned telephone call from a client, John Restivo, who had informed me that he was interrogated for approximately twenty-four hours by Detective Dempsey and two other Detectives, Volpe and Sharkey on Tuesday evening, March 5, 1985 until Wednesday evening, March 6, 1985, I immediately telephoned the Homicide Squad and asked for Detective Dempsey.

When Detective Dempsey came to the phone he identified himself and asked who was calling. I identified myself by my name and informed him that I was the attorney for John Restivo and Dennis Halstead. Within moments, Detective Dempsey loudly and abruptly informed me that he did not know who I was, did not wish to talk to me and hung up on me.

I again called the Homicide Squad and requested to speak to the Lieutenant in charge. Lieutenant Spillane then identified himself and I again informed him that I represented both John Restivo and Dennis Halstead. Unfortunately, at this point Lieutenant Spillane immediately became abusive and surly, and I was forced to terminate the phone call shortly thereafter without formally noting my appearance. I was thereafter forced to send an associate to Police Headquarters to deliver two Notices of Appearance for the above-named individuals. This is an entirely unusual police procedure, is downright discourteous and appears to have been purposely contrived conduct to overcome the normal attorney/client relationship notification to the Police Department.

TR0001517

Commissioner of Police

Page 2

March 19, 1985

Moreover, my client maintains that he was physically assaulted by the detectives interviewing him and has been treated medically for a cervical sprain resulting from the detectives' physical abuse. Furthermore, my client maintains that he was unlawfully restrained in Police Headquarters by the detectives above-named without benefit of a phone call to his wife, family or attorney for a period of approximately twenty-four hours. He further informed me that he was told that he would not be permitted to leave the headquarters until he gave a statement regarding an alleged murder.

I hereby request that the above episode be investigated and reviewed by you or your representative and a determination made on the actions of these detectives and their lieutenant. I would appreciate it if you would direct a copy of any report on the outcome of your investigation to my office.

I further request that you direct your detectives to cease any further actions against my client, John Restivo, and in the event that they wish to further interview him any and all such interviews should be done in my presence.

Thank you for your anticipated courtesy and cooperation.

Very truly yours,

ROBINSON & ROBINSON

Theodore W. Robinson

TWR:elp

TR0001518

**ROBINSON & ROBINSON**

ATTORNEYS AT LAW  
175 WEST OLD COUNTRY ROAD  
HICKSVILLE, N.Y. 11801

516 881-5151

PHILLIP F. ROBINSON  
THEODORE W. ROBINSON  
PAUL C. AHRENS

UPSTATE OFFICE  
P.O. BOX 191 - R. D.#1  
CAMBRIDGE, N.Y. 12816  
518 677-8843

March 27, 1985

Nassau County District  
Attorney's Office  
262 Old Country Road  
Mineola, NY 11501

Attention: Martin Bracken, Esq.

Re: John Restivo

Dear Mr. Bracken:

Please be advised that this office represents John Restivo and has done so in the past. Mr. Restivo has recently informed me that on March 7, 1985, he was taken to the Nassau County Police Headquarters Homicide Bureau and questioned for approximately a twenty-four hour period without being given an opportunity to call his wife or attorney and inform them of his whereabouts. In addition, he informs me that he was brutally treated by the Detectives in the squad area, most notably Detective Dempsey, who choked him about the neck with his hands. I have both photographic and medical documentation of this occurrence and request your further review of this matter.

Please note that I have also informed the Police Commissioner of this incident and feel that there has been at least an Assault in the Third Degree perpetrated against my client. Additionally, when I attempted to note my appearance with Detective Dempsey two days later for both Mr. Restivo and a Mr. Dennis Halstead, apparently the target of an ongoing investigation, Detective Dempsey refused to acknowledge my call and promptly hung up on me. When I again called the Homicide Squad and asked for the Lieutenant in charge, I received an additional discourteous response from him.

I further request that you investigate this issue as being counter to the normal attorney/police work that must go on a daily basis. Obviously, if the members of the Police Department are refusing to accept calls from attorney's noting their appearance, it is clearly violative of defendants' rights.

TR0001511

Martin Bracken, Esq.  
Page 2  
March 27, 1985

Would you kindly inform me of the outcome of your investigation and whether or not any charges will be brought against the alleged defendant/detectives. If you wish to interview my client, Mr. Restivo, please notify me and I will arrange to be available at our mutual convenience.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,  
ROBINSON & ROBINSON

Theodore W. Robinson

TWR:pr

TR0001512

RECEIVED  
U.S. DISTRICT COURT  
CLERK'S OFFICE, WASH., D.C.  
JULY 2 2012

These documents add to an already voluminous library  
of evidence and exhibits that demonstrate the criminal and reprehensible  
actions of the FBI over the last fifteen years. They also demonstrate that the  
FBI has violated the Constitution and the law numerous times.

None of the foregoing has been shown to you by either

DEPUTY ATTORNEY  
GENERAL & ASSISTANT  
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

DOJ-2012

# Exhibit D

1/12/85 Resturio -

P/c from John -

Tool rental man says he's closed on Sat  
and he must have rented the tool on Sat.  
See Klier - T.

872-0088 -

4/12/85 P/c w/ John

11/12/84 - He was w/ Michel Cockrell - got some  
+ tools + rental store - worked at house -

1/10/88

Restivo -

H.H.R. office conf w/ John + his wife -

John R says he also rented another order  
on the same day 1/10/88 at 12<sup>00</sup> AM and  
returned on 1/12/88

The first rental operator will check that I  
picked up the order on 1/10/88 because although  
the receipt says 1/11/88 - she closed on Saturday

4/25/85 John Restivo -

H/T Hes... offic conf w/ Mrs. Joe Restivo (mother) + Frank May

Private Investigator

3) Need statement from Ted place on date of cb  
and receipt and any others info about John

# **Exhibit E**

SMITH, Debbie

HOMICIDE LEAD SHEETLEAD RECEIVED: 12/9/84 0425

LEAD NO.

RECEIVED BY: J. VolpeHOM. NO. 2222-84

## (LEAD SOURCE)

NAME: Debbie Smith

HOME TEL:

ADDRESS: [REDACTED]

BUS. TEL: [REDACTED]

## (NATURE OF LEAD)

Called and stated that between 4/7 & 11/20 she was driving over Sunrise at Rocklyn (ber 2100-000, HHS) & heard a scream. When she got to RR tracks on Rocklyn there was a car parked with no one in it. Auto possibly TAN, 4 door work vehicle, large windows, had tools & dark colored blanket in auto.

## RESULTS: (INDICATE DATE(S) AND MEMBER(S) INVESTIGATING)

12/9 - Ms Smith responding to homicide to view auto stolen in Lynbrook 11/10/84. Imp. 396-84

Det Price & Lane present at L.S.P. with above. Det Price arrived car after viewing stated that he remembers the Bishay minivan the parking status in the windshield and the silver AAA sticker on rear bumper.

Stated she would only give us a 90% chance who she looked inside the car there was a lot of darkness in the rear seat remembers a blanket that's tools or tape.

Said she viewed car between 11:30pm to 1AM because she remembers no traffic on Sunrise Highway there were no trains on Rail Road overpass.

CARD FILE PREPARED 

(OVER)

DET VOLPE

"28 yrs"

04/22 - Denise Smith [REDACTED] Reports a few weeks ago she was at sunrise /Rocklyn Apartments. She heard a girl scream. When the light changed she observed a vehicle parked on ext of Rocklyn Ave at LIRR overpass, no occupants. Veh Description - 1970-75 GRAY OR BEIGE, WITH Large windows. [REDACTED] IN IT. Time APPROX 2100-0100 HRS.

→ Nov. 14-20 Ber. 17420

→ Nov. (Nov 19-20) (bet 9:00 & 0100)

North on Rocklyn - Poss VAN -

4 Door Car Sedan  
full size

Residence

- Window open -

→ [REDACTED]  
[REDACTED] American Tech Cleaners  
15 SEPAL Place  
New Stanton

Day Time - 271-9600 EXT 220

Computer Room

Evenings - comes home  
MON & WED 2000

TRADESMAN - equipment in car  
Tools Blanket & Dark -



Dec 9, 1984  
Ham 2222-84

Statement of Deborah L. Smith

My name is Deborah L. Smith. I am 28 years old. I was born [REDACTED] I live at [REDACTED]

[REDACTED] My home phone number is [REDACTED]. I work at American Technical Ceramics at 15 Stypas Pl Huntington Station, NY. phone 271-9600 ext 233 as a computer program analyst. I live at home with my parents and brother and sister.

I have been told by the Detective who is writing this statement that any false statements made herein are punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

I wish to state last month I believe between November 17 and the 20th I had gone to my friend James Pearson's house at [REDACTED]

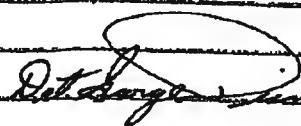
[REDACTED] for the evening. We had an argument and I left his house to go home. I started driving on Atlantic Ave to Central Ave as I got to that corner I saw that the Rail Road gates were down for a train that was going towards Long Beach. I decided to take Rocklyne Street up to Merrick Rd and Ocean Ave where I go

Dated January 24, 2009 Name Deborah L. Smith

go to Peninsula Blvd and home.

I drove north on Rocklyn Ave to Sunrise Highway the traffic light was red and I stopped for the light. I had my windows partly open because I was smoking.

While I was sitting at the light I heard a woman scream. I rolled my window down and listened but didn't hear anything else. The scream came from the left. I liked it was up light I looked at the Rail Road elevated because that ~~screamed~~ to be the direction that the scream coming from. The Traffic light changed and I drove across Sunrise Highway and under the Rail Road carrying <sup>then up</sup> I saw a large light turn signal from one of down below early 70s. it had large windows I looked inside and saw a lot of stuff in the back seat I think there were two a blanket and other stuff in the back seat. During this time I got out of my car and looked around toward the Rail Road track. I looked at the license plate I remember there were four numbers and three letters and a slanty J

 Det. George J. Mulligan Name Detra L. Smith

stickers on the left side of the bumper.  
I also remember that the car had a broken  
windshield and a ticket on the left front  
window on the dash board.

Today I received a phone call from Det  
Joseph Valpe who asked me to come to  
Police Headquarters and view a car that  
they have there. I met with Police  
Officer Lamer and Det Picco who  
showed me a 1971 Oldsmobile Delta  
88 and I have looked at the car. I feel  
that this is the car I saw that night  
the only exception I have is that  
the interior of the car does not have  
all of the stuff in it that the car had  
when I had stopped by the Rail Road crossing  
I have given this statement to the detective  
and it is the truth.

Detective James O'Kell alias Richard Smith

address [REDACTED]

phone [REDACTED]



JUN 08 '04 12:58PM CRIME SCENE  
1255 Newbridge Road,  
No. Bellmore, NY 11710  
Tel: 516 573-8015  
Fax: 516 573-8022

P.1

FORENSIC  
EVIDENCE BUREAU,  
CRIME SCENE  
SEARCH SECTION

Fa

12.11.04 1030 AM. Det. Mitchell

- To: Debbie Smith called Command bus,  
Re: ad state she is not sure if she  
Pho: saw the automobile between  
Re: 11/17 and 1/21 on between 9/10 and 11/14.  
D.D. She will attempt to put her date and  
activities in order and will call us  
back.



789

Imp. # 396-84

12/6/84

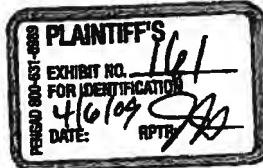
1840 hrs.

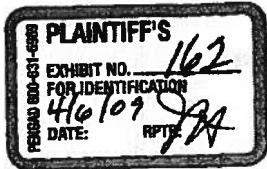
79-3227

Resident at 58 Bay, Malbone N.Y. home  
of John V. French. He stated that on  
11/18/84, his 1971 Oldsmobile Sed.  
Reg. 5233 BJN N.Y., his car was  
parked on SW corner of Leavenworth  
Ave. & Ocean Ave. It was stolen  
sometime bet. 2:30 - 2:305 hrs. that  
date.

On 11/18/84, Mr. French went  
out looking around for his car.  
He entered Leavenworth and he found  
it parked on Woodfield Rd. near  
the A.R. Tucka. He then got his  
keys & drove the car to Lyford  
P.D. Prior to going to the P.D. his  
sister Lili found a pair of blue  
jeans with stripes. Blue  
jeans were (inside-out); jeans  
were found on the rear floorboard  
helping under the passenger seat.

1971 OLDSMOBILE DELTA 88 Sedan  
VIN. # 354391E163279  
N.Y. REG. 5233-BJN N.Y.





Loss From John French's Auto

ROPE

TOOLS - were under front seat wrapped in

Plastic Camping Case.

Cassette Tapes, Insurance Cards, Coins, Bills

FLOOR MATS

NOTHING WAS ON THE BACK SEAT OF THE  
Auto Prior TO THEFT OF Vehicle.

Radio was taken from Dash - SANYO AM-FM  
Cassette Stereo : Two Speakers from Rear  
of Car.

WINDSHIELD WAS NOT BROKEN Prior To Theft

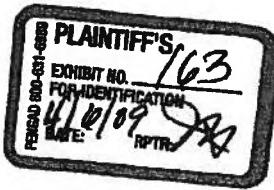
AT TIME OF THEFT French was

VISITING: MIKE Becht

1 OCEAN AVE ~~500 1/2~~

MALVENS

PREPARED 12-11-84 By Det. Mitchell



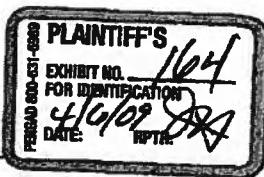
Statement - Taken from John T French. Taken 4-9-64  
My name is John T French, I am 31 yrs. old, born April  
on 7-31-63. I live at 58 Broadway, Monroe, NY with  
my mother & 2 sisters. My home phone number is 599-3229.  
Today Detective Saccoccia of the Monroe PD came  
over at my house asking me about the shooting of my eye  
and a broken left hand.

I have positively identified the gun & the gun  
as mine. I had the length of page in the back  
seat of my car, because I used it up the down so bad  
that I had transported the my hand. The left hand I  
use to keep change in.

For telling my story to Detective Saccoccia of the  
Monroe PD. I have read & signed it and its the  
truth.  
Witness D. P. Saccoccia  
44-276.

X John French  
X 58 BROADWAY  
X MONROE, N.Y. 11565

NC002200



People who were in  
John Doe's car.

1. Dave Washington - [redacted] not avail.  
works with John Doe off and on.

2. Michael Becht - [redacted]  
[redacted] (John's one sister from  
above brother) - has moved away

3. Michael Klein - [redacted]  
[redacted] works as bank teller  
[redacted] home.

4. John Reddick - [redacted]  
[redacted] Black man.  
\* John is being used family very upset  
hold-off home drugs.

2200

NC002200

NC002199

5. Maggie Scagatti - # [REDACTED] [REDACTED] orange hair color.	[REDACTED]
6. Susan Kippe - # [REDACTED] [REDACTED] brown - blonde highlights	[REDACTED]
7. Jacob Dawson - # [REDACTED] [REDACTED] dark brown hair	[REDACTED]
8. Thomas Glaser - # [REDACTED] [REDACTED] light brown hair	[REDACTED]
9. Jennifer Cole - black hair 10. Thomas Glaser's girlfriend - got her glasses from Tom	[REDACTED]
Mother & Sister - met John one from time-to-time.	[REDACTED]

2199

NC002199

NC002202

Han. Joseph Schatzel - 122784

Thomas Keena - [REDACTED]

Mer French - [REDACTED]

Eric French - [REDACTED]

Lisa French - [REDACTED]

Doug Moringen - [REDACTED]

John French - [REDACTED]

2202

NC002202

NC002212

POLICE DEPARTMENT  
COUNTY OF NASSAU, NEW YORKCASE REPORT  
VEHICLE/BOAT RECOVERY REPORTDISTRIBUTION  
ORIGINAL - Command  
COPY - Auto Squad VEHICLE BOAT

INSTRUCTIONS - The Command originating the Stolen Vehicle Report is responsible for the prompt and accurate preparation of this report and notification to the owner.

ORIGINATING D.O. NO. NAME LAW SECTION NUMBER	CASE REPORT NO. <b>1084-84</b>	DATE & TIME OF REPORT <b>11/16/84 2345</b>	ALARM NO. <b>28357</b>	DATE & TIME OF ALARM <b>11/16/84 0035</b>		
DETECTIVE ASSIGNED <b>DET. BACCIARDI</b>		CLASSIFICATION <b>UNAUTHORIZED USE</b>				
OWNER DRIVER IC C E	REGISTRATION NO. <b>5233-BJN</b>	STATE <b>NY</b> <input type="checkbox"/> OTHER	YEAR <b>1971</b>	MAKE <b>OLDSMOBILE DELTA 88</b>		
	VIN OR IDENTIFICATION NO. <b>35437IE163279</b>	MILEAGE <b>117,000</b>	INS. CODE <b>2A4</b>	VALUE <b>\$300</b>		
	CAN VEHICLE/BOAT BE DRIVEN <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	CONDITION OF VEHICLE <input type="checkbox"/> INTACT <input type="checkbox"/> PARTS MISSING <input type="checkbox"/> STRIPPED	IF VEHICLE STRIPPED <input type="checkbox"/> ENGINE <input type="checkbox"/> TRANSMISSION <input type="checkbox"/> ACCESSORIES <input type="checkbox"/> DOOR(S) <input type="checkbox"/> EXTERIOR <input type="checkbox"/> INTERIOR <input type="checkbox"/> WHEELS <input type="checkbox"/> REAR CLIP	PLATES RECOVERED <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9 <input type="checkbox"/> 10 <input type="checkbox"/> 11 <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input 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SIGNATURE DETECTIVE SUPERVISOR						



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PREPARED ONE ORIGINAL

FDCH 30-A REV. 1/72

POLICE DEPARTMENT, COUNTY OF NASSAU, N.Y.  
SUPPORTING DEPOSITION MOTOR VEHICLE, BOAT, AND REGISTRATION PLATES

AUTO SQUAD NO.	ALARM NO.	D.P. NO.	CASE REPORT NO.
	28357		1084-84

REPORTED BY

I, JOHN T FRENCH certify that I reside at \_\_\_\_\_ and that between, time 1-11 AM SPM, Date 11-10, 1984 and time 2-105 AM SPM, Date 11-10, 1984 a  Motor Vehicle  Boat  Registration Plates, described below, in legal custody of ABOVE residing at \_\_\_\_\_

IN CUSTODY OF  
LEGAL GUARDIAN

Home Tel. No. (AREA CODE) 516 \_\_\_\_\_  
and owned by ABOVE residing at \_\_\_\_\_

OWNER

Date of Birth \_\_\_\_\_, 19 \_\_\_\_\_ Home Tel. No. (AREA CODE) \_\_\_\_\_

Bus. Tel. No. (AREA CODE) \_\_\_\_\_ and Occupation SUPERVISER

was stolen from post no. 3 location SOUTH SIDE LAKEVIEW AVE  
200 WEST OF OCEAN AVE LYNNROOK NY

and I gave no one permission to take, operate, exercise control over, ride in or otherwise use the below mentioned  Motor Vehicle  Boat  Registration Plates.

LICENSE PLATE NO.	STATE <input type="checkbox"/> N.Y. <input type="checkbox"/> OTHER	EXPIRE DATE	TYPE	VIN NO.	YEAR
<u>5L338JN</u>	<input type="checkbox"/> OTHER	<u>6-85</u>	<u>4050</u>	<u>359391E163279</u>	<u>71</u>
MAKE	MODEL	STYLE	COLOR	VALOR	
<u>OLESM</u>	<u>DELTA 88</u>	<u>4050</u>	<u>GL/BLACK TOP</u>	<u>\$400</u>	
LEAPON IN AUTO		OTHER IDENTIFYING FEATURES, DAMAGE, ETC.			
<input type="checkbox"/> YES <input type="checkbox"/> NO		<u>HUNTING KNIFE ABOVE PASSENGER DOOR</u>			

REGISTRATION NO.	STATE <input type="checkbox"/> N.Y. <input type="checkbox"/> OTHER	EXPIRE DATE	OUTER HULL MATERIAL	BOAT HULL NO.
<input type="checkbox"/> PROULION <input type="checkbox"/> SAIL <input type="checkbox"/> IN	<input type="checkbox"/> OUTBOARD <input type="checkbox"/> DOCKED	<input type="checkbox"/> OTHER	<input type="checkbox"/> WOOD <input type="checkbox"/> METAL <input type="checkbox"/> PLASTIC <input type="checkbox"/> OTHER	
MAKE		TYPE OF BOAT		LENGTH
MAKE OF MOTOR		HORSE POWER	SERIAL NO.	NAME OF BOAT

The information contained in this instrument is true; I understand that any false statements made herein are punishable as a Class A Misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York, except that any false statements made alleging the theft of a motor vehicle whose value is more than \$250.00 are punishable as a Class E Felony, pursuant to section 210.47 of the Penal Law of the State of New York.

VEHICLE LOCKED AND SECURE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	KEY IN VEHICLE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	SIGNATURE OF DEponent		
DATE <u>11-10-84</u>	TIME <u>2-25</u>	PLACE <u>LAKEVIEW AVE WEST OCEAN AVE LYNNROOK</u>	FIRST	SECOND
INITIALS <u>RD</u>	SURF <u>T</u>		INITIALS <u>RL</u>	INITIALS <u>LNJ</u>

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NC002213

**NC002214**

## DISTRIBUTION

White • Investor

1

Career - Data Processing Unit

8

2003 Edcon

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# Exhibit F

# M I S S I N G

## THERESA FUSCO

**DESCRIPTION**

Ht. 5'3"

Wt. 104 lbs.

AGE 16

BROWN HAIR

BLUE EYES

DENIM JACKET

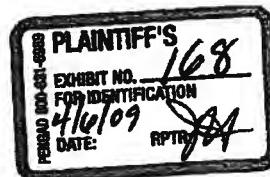
STRIPED BLUE JEANS

WHITE BALLOON SNEAKERS



LAST SEEN NEAR "HOT SKATES", LYNBROOK, NEW YORK  
IF YOU HAVE ANY INFORMATION CONCERNING THERESA  
PLEASE CONTACT NASSAU COUNTY POLICE AT:

**(516) 535-7858**



021939

## CORPORATE AGREEMENT

# Exhibit G



BRIAN O'HANLON 9/12/85  
234 [REDACTED] 1/11/62  
[REDACTED]

~~Probation Officer. HYERLO COOK. Sonoma  
WIFE CHARLE (CARPENTER) 9/2/64  
DAUGHTER DANIELLE. 3 1/2 months old.~~

(FATHER) (MOTHER)  
HAROLD & LOREN CHANTAL - NONE  
KATHLEEN (16) (SISTER) - NONE  
KEVIN (22) BROTHER - STEWART 1243 MURRAY  
STEWART

SOP EMPLOYED

E. Rockaway High School  
1981 graduated C.E.D.

married 12/18 / 84

Justice of Peace married  
3 P.M. at 1307 Azure St.  
New West Harbor, Socorro  
best man  
25 people present for about  
5 hours.

Honey moon To Martinsburg  
Vermont etc. for week left  
on 16/12/85 8:00 AM

(*Chamoris linnæi*)

8 years old at last.

Worked with him (Dennis) for awhile.  
but Dennis didn't pay  
Dropped out & took with Dennis.



Dennis Tight with Skellington  
T. Deslino <sup>doing their</sup>  
~~prior to disappearances~~

Dennis worked at Taibbi Shop  
T. Deslino would always pull up.  
5 years or so

Natoni Tight with Halstead

Dennis used to party with  
young girls.

Dennis told Brian since Q.  
around 11/2 or 11/6  
that "T" was at his (Dennis)  
apartment a couple of days  
prior to her disappearance.

?  
not true  
//

Two weeks prior to his  
marriage Brian was told by  
Dennis that missing girl?  
was in his apartment a day  
or so prior to her disappearance  
Conversation

Own book Taxi driver there  
about 11 years bets on horses.  
35 years driving horses night  
shift. Days they're pretentious  
Driver that Halstead did it

Brian received 4 calls  
Collect from jail

Tarie  
voque

Dave Sheffington told Brian  
That John Restivo told  
Some one "I did something  
wrong, I fucked up" John  
was crying at this time.

~~1/25/07~~ March

At New Jt Dennis asked  
Brian if he wanted to make  
big money & to knock somebody  
off for him; the fatid who?  
Dennis said "John Restivo,  
he tried to implicate me  
in a murder" What murder?  
Brian asked "The murder of  
The missinglyn Brook Job"

Phone calls from Tay  
Tarie Carrie talked to  
Brian

Carrie accepted charges  
Brian wasn't home Dennis  
Talked about his new son  
Told Carrie that his father  
had a contract on him Said

a few  
days  
ago  
later

That Tommy McBrule was  
after him. (In relation to Wade)

Brian accepted charges, Told  
to Dennis - Asked for money  
for Commission, Told him  
to get rid of Ram charger  
The conversation about baby  
was in Protective Custody, stated

354

Said Lawyer told him  
that he was going to "walk"  
Cops have nothing, that his  
phone was Tapped.

456

Refused charges told wife  
to hang up.

4

Last time several weeks after went  
out at 7-11 - Atlantic Ave - Lynn

Before parked up. Dennis told him  
phone tapped - opt bugged

2 weeks ago - cab - Ellery & Campkins  
Brooklyn - left from High Street Station  
8:30 - 10:00 A.M.

after polygraph - 1930

"at"

Dennis H. told him Kelly was  
at his apt. 2 days prior her  
disappearance

2 wks. at least  
prior to getting married - travelled to  
Gerry Place to get money from John  
B. Cheary unk. John outside working  
on sign Blue van or left, John  
stated spent money for lunches  
for blue van going to fix after  
fixing sign.



## Interview of Brian O'Hanlon

Myself and Det Wattman were present in the interview room of the Homicide Squad when the interview was conducted. Brian indicated that Dennis Hallstead told him about 3 days before he was arrested for the murder that "I know the apartment is bugged but I can't find the fucking thing" "I think the bug is in the lights" "I'll definitely walk on this thing".

Hallstead had told Brian "The cops are looking at me cause I had that missing girl in my apartment getting high" He told Brian that he had told the police this.

Brian went onto say that about a week after Hallstead's arrest for murder he received a call from Hallsted and that Hallsted told him:

- ① "There's no way these mother fuckers are going to pin this on me" "I'll walk on all this"
- ② "You have to sell my truck because I need the money" Brian never sold the truck.
- ③ "They got me in isolation here in the jail cause a inmate by the name of McBride put a contract on me to kill me that and..."

3) A second call from Hallstead to O'Hanlon took place about a week after the first so that Hallstead tells O'Hanlon the following

- Hallstead, Festivo, Kogut were in Festivo's van
- They saw the girl walking by Festivo and Hallstead said to the girl (Fusco) "Do you want to party?" I talked her into getting into the van. When she was in the van Dennis said he said to her "Are you going to do the right thing?" (have sex with them). The fuck began to scream so Kogut hit her, we were all taking turns fucking her and we took her into the cemetery. I got her into the van and fucked her but man no way did I kill her". When we got her to the cemetery, she kept saying I'll tell. Festivo told Kogut a "moving story" to Kogut and Kogut killed her. Hallstead said they've had to get rid of the body so we dumped it in [redacted].

What precipitated this conversation was. On the second call to O'Hanlon. O'Hanlon said to Hallstead "What's your act in this thing I know they must have something on [redacted]. Then Hallstead isolated his association